

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TUAN V. LE,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 02-CV-3368
KENNETH JOHN ELWOOD	:	
	:	
Defendant.	:	

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant, Kenneth Elwood, District Director of the Immigration and Naturalization Service ("the Service"), by and through his attorneys, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania and Susan R. Becker, Assistant United States Attorney in and for the same District, hereby files the following Answer to Plaintiff's Complaint:

FIRST DEFENSE

In response to the numbered paragraphs of plaintiff's complaint, defendant responds as follows:

1. Defendant denies the averments in paragraph 1 of plaintiff's complaint and states that the last known address for plaintiff is 122 Falmouth Way, Dover, DE 19904.
2. Defendant admits the averments in paragraph 2 of plaintiff's complaint.
3. Defendant admits that plaintiff seeks to review the Service's decision to deny plaintiff's application to become a naturalized citizen of the United States. The remaining averments set forth in paragraph 3 of plaintiff's complaint are conclusions of law to which no response is necessary. However, defendant states that the Court has jurisdiction to review the

Service's denial of plaintiff's naturalization application pursuant to Section 310(c) of the Immigration and Nationality Act, codified at 8 U.S.C. § 1421(c).

4. Defendant admits the averments in paragraph 4 of plaintiff's complaint. By way of further answer, defendant states that plaintiff filed his Application for Naturalization on October 3, 2000.

5. Defendant admits the averments in paragraph 5 of plaintiff's complaint, except states that the date of the written denial of the application was June 15, 2001.

6. Defendant admits the averments in paragraph 6 of plaintiff's complaint.

7. Defendant admits the averments in paragraph 7 of plaintiff's complaint. By way of further answer, defendant states that the Service issued a written decision on July 8, 2002, denying plaintiff's request for reconsideration of the Service's denial of his Application for Naturalization.

8. Defendant admits the averments in paragraph 8 of plaintiff's complaint.

9. Defendant denies as stated the averments in paragraph 9 of plaintiff's complaint, but admits the plaintiff's two convictions for driving under the influence were the basis for the Service's decision that plaintiff did not establish the requisite good moral character necessary to be approved for naturalization.

10. The averments set forth in paragraph 10 of plaintiff's complaint are conclusions of law to which no response is necessary. To the extent paragraph 10 of plaintiff's complaint contains averments of fact, they are denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to establish good moral character necessary to be eligible for naturalization under the Immigration and Nationality Act.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is not entitled to a trial by jury.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is not entitled to the relief he requests.

FOURTH AFFIRMATIVE DEFENSE

Defendant acted at all times in accordance with the procedures required by law, rule and regulation.

WHEREFORE, Defendant requests that judgment be entered in the Service's favor and against Plaintiff, and that defendant be awarded costs and any other relief that the Court determines is just.

Respectfully,

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHAN
Assistant United States Attorney
Chief, Civil Division

Dated: July 25, 2002

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of July, 2002, I caused a true and correct copy of the foregoing Defendant's Answer to Plaintiff's Complaint to be served by first-class mail, postage prepaid, upon the following:

Joseph I. McDevitt
Suite 400, Four Tower Bridge
200 Barr Harbor Drive
West Conshohocken, PA 19428

Attorney for Plaintiff

Susan R. Becker